1940

Sectt. H-23—45,000—19-10-39

Home

G.O. No. 2599 } H&L Compn
Letter no 2600 }

Dated 17th June 1940

P 11

P 33

[Despatch Abstract.]

PORT BLAIR CONVICT No. 47133, Madiga Iruga — Conditionally released in Andamans
Release sanctioned.

It is required that in all future communications on this subject, the entire number and date may be quoted.

OFFICE OF THE CHIEF COMMISSIONER,
Andaman and Nicobar Islands.

Telegraphic Address :—
"ANDAMANS."

No. C/815

Port Blair, the 18.4 *19*40

It is requested that all communications on the subject may be addressed to the Chief Commissioner, Andaman and Nicobar Islands, CONVICT RECORD DEPARTMENT.

FROM

The Chief Commissioner,
Andaman and Nicobar Islands,
Port Blair.

To

THE Secretary to the Government of Madras,
Home Department,
Fort St. George - Madras.

No. of enclosures.

SIR,

Adverting to correspondence resting with your letter No.42340 D-1 dated the 16th December 1938, I have the honour to submit the case of local conditional released convict No.47133 Madiga Iruga for the orders of the Government of Madras as he completed two years including remissions on 14th April 1940 vide calculation below.

His conduct in the Settlement has been good.

Date of release (completion of 2 years including remissions)	..	14.12.38 2- 14.12.40
Andaman $\frac{1}{3}$ remission	..	0. 8. 0 14. 4.40

I have the honour to be,
S i r,
Your most obedient servant,

Deputy Commissioner,
for Chief Commissioner.

M/Mg.

Home Department.

Endorsement No. 12245 Dated 2-7-41

~~Recommendation Roll No.~~

~~dated for the release of~~ Port Blair Convict No. 47133, Radiga Iruga – Release Ref Lr. from the C.S. Andamans No C/8158/18466

Referred to the D.M. Bellary for early report whether there is any objection to the release of the convict.

~~No~~.

He is requested to forward copies of the Judgment of the Sessions Court, Bellary which sentenced the convict to transportation for life and of the High Court on appeal, if any.

Ra 2/7/41

Plus 2/7/41.

To the D.M. Bellary

(with encl. to be retd.)

Ajad 2/7/41.

Ir. after ~~8 XXX weeks.~~ a month)

C.F. 32.

In reply, please quote number, date and short title.*

Magisterial DEPARTMENT.

Received 20 MAY 1940 Registered 151 - D 205.40

From (Name) N.Karamatullah, Esq., I.C.S.,

(Designation) District Magistrate,

Post Box ____, (Station) Bellary.,

Telegraphic Address ____

To

The Secretary to Government,
Home Department,
MADRAS.

Refc. *No.* 472/40 Mag.I *dated* 17-5-40. 19 .

Sir,

ENCLOSURES

Judgments & letter of the Chief Commissioner

Prisoners - Port Blair Convict No.47133, Madiga Iruga Release - Reference letter from the Commissioners, Andamans No.C/815 dated 18-4-40. Report submitted.

Government Endorsement No.12245-D-1 dated 27-4-40.

I invite your attention to this office letter L.Dis. 1058/38 dated 29-8-38 submitted in reply to Government Memorandum No.22603-D-2 dated 18-8-38. As the circumstances have not changed since then, I do not recommend his premature release for the reasons stated in my letter quoted above.

2. The enclosure received with your endorsement quoted above together with the judgments of the Sessions Court and of the High Court on appeal are submitted herewith. The judgments may be returned when they are no longer required.

18/5/40

For Dist.Magistrate

S.N.18-5-40.

18.5.

4 9

Home Deptt.

Post Blair Convict – Locally Conditionally released on the Andamans
No. 47133, Madiga Ynga – Final relase from the Andamans.

CF 6.No/12245D] from the C.C. Andaman and Nicobar Islands
D-1 No. C/815 & 18-4-1940.

CF [Endt to the D.M. Bellary No 12245D-1 & 17.6.40
D2

CF 6.No.15005D] from the D.M. Bellary Refce No. 472/40 Magl & 17.5.40
D3.

6no.4399 - (N) In September 1938, the release of Post Blair convict Madiga Ynga was
P/89 refused by Govt. as the D.M. was strongly opposed even to his conditional
(N) release. On a subsequent reference from
P5
(R) the C.C. Andaman and Nicobar Islands the
P1 (R) Govt agreed to the convict being released
P5. locally in the Andamans on the conditions
mentioned by the C.C. in para 1 of his letter
(R) at P1 of Letter No. 4982 Home & 14-10-38. The
(R) C.C. Andamans was however requested to
P/6 & 8 resubmit the prisoner's case after two years
including remission. The C.C. Andamans
CF has now submitted the case ~~for orders~~
P1 ~~of Govt~~. after the copying of the record
specified, for orders of Govt. The D.M.
CF Bellary, is still opposed to the release
D2 from the Andamans of the prisoner.

via

2-5

His reasons for the recommendation are that the circumstances have not changed since his former recommendation in August 1938 against even the conditional release (from Andamans) of the prisoner.

2. For orders whether the D.M's recommendation will be accepted and if so whether the C.S. Andamans may be informed that this Govt. have no objection to the prisoner's transfer to a gaol in this Province and that if the convict elects to remain in the Andamans itself subject to the conditions specified ~~at A~~ in para 1 of his letter on p.1 of (R), his case may be resubmitted for orders of Govt. after ~~he completes 20 years in prison~~ ~~of~~ *five years ~~excluding~~ ~~including~~ remission ~~vide~~ ~~the enclosure~~ para 3 of the rules at pp 3-4 of Letter No. 69 SR Home dt 16-10-1938.

The Draft subd. is for approval.

CF
P3.
(N)
P5.

X

*the period of

(R)

Please see note below

25/5/40.

RW
27/5

The convict in question has undergone an actual sentence of 15 years and 4 months and a sentence of 22 years inclusive of remission.

2. His conduct in the Andamans is stated to be fair--vide roll dated 25-6-1938. A copy of the judgment convicting the accused and sentencing him to transportation for life will be found at flag (I). No doubt this accused

vide P1F

(N)
F1

116

(4th accused in the case) along with three others was responsible for the commission of a dastardly murder of a marwari in a cruel and revolting manner. The murder was committed for gain.

p.5 of (I)

3. On the last occasion the release of this convict was refused for the reasons given by the D.M. on page 5 of G.O.No.4399-4400 Home dated 10-9-1938. The D.M. then stated that the case of the convict came under paragraph 3 of the Memorandum in G.O.No. 1774 Judicial dated 18-11-1911. It does not appear from the judgment that prior to his conviction, the convict was a very dangerous professional criminal.

4. The questions for orders are:

(1) whether action may be taken as at 'A' on page 2 ante: or

(2) whether the convict may be released conditionally, the D.M. being consulted as to any special conditions if any that should be imposed in regard to his release.

I don't really see why we should postpone his release any longer.

3.6.40.

Subject.

The meeting of the Committee to consider some remarks made by the Hon'ble Diwan Bahadur Madhava Rao has been postponed. The accused were a bad lot and there is nothing to show that they were convicted before they were released

5/6/40

For orders whether the prisoner may be released from the Andamans ever subject* to good* conduct for two years or whether the D. N. Bellary should be addressed as to what special conditions he wishes to be imposed on the release.

*Please see precedents in regd. No. 4793-94 B&C-10.38
" 1048-49 B 25-2-38
" 1046-47 B 20-2-38
" 870-71 B 18-2-38

Alternative drafts are subd. for consideration.

Perhaps draft I may serve

RECEIVED 9 JUN 1940 SECRETARIAT HOME DEPARTMENT

U.B.d.

Usual letter to the C. C. Andamans

Draft II) below is subd. for approval

13 8

C.F. 26

DRAFT FOR APPROVAL.

Date. 12/6. Initials.

HOME DEPARTMENT

SUBJECT :—

PORT BLAIR CONVICT - Conditionally released in Andamans - No.47133, Madiga Iruga - Release sanctioned.

When received for fair copying ..	Two drafts.	
When copied ..	9.12.6.	
When examined ..		
When signed ..		
When despatched.		

READ AGAIN G.O.No.4399-4400, Home, dated 10-9-38 19

" " Letter No.4982 Home, dated 14-10-38 19

READ ALSO :—

No.12245 D From the Chief Commr., Andaman and Nicobar Islands, No.C/815, dated 18-4- 1940

" " D.M., Bellary, Ref.No.472/40 Magl., d/17-5--40

" " " " " 19

Order — Ms. No. 2553, dated 19

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, Act V of 1898, H.E. the Governor of Madras is pleased hereby to remit the unexpired portion of the sentence of transportation for life passed on Port Blair Convict No. 47133, Madiga Iruga by the Sessions Judge of Bellary in S.C.No.59 of 1924 on his file and confirmed by the High Court of Judicature at Madras in C.A.No.113 of 1925 on its file subject to the conditions:--

(1) that he shall be of good conduct and keep the peace for a period of two years; and

(2) that in the event of his settling down in the Andamans, he shall obtain the previous permission of the

9

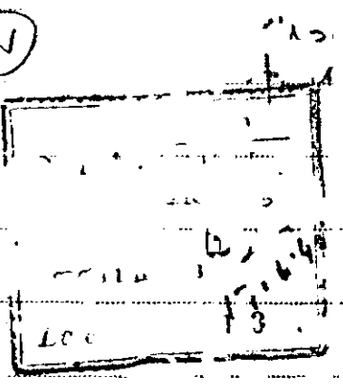
Deputy Commr., Port Blair, before he changes his residence.

11/6/40
11.6.

12/6

13.6.40.

To The Chief Commr., Andamans & Nicober Islands (with C.L
,, D.M., Bellary
,, I.G. of Police (with copy roll & s.c. of order)
,, Hon'ble C.J (with C.L)
,, I.G. of Prisons



P.T.O

15 10

Gr. I-Law (Genl.) I-27—350—2-2-34.

Home /
~~LAW (GENERAL)~~ DEPARTMENT.

No.

FROM

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
Home
~~LAW~~ (GENERAL) DEPARTMENT.

To

THE CHIEF COMMISSIONER
OF THE ANDAMAN AND NICOBAR ISLANDS,
CONVICT RECORD DEPARTMENT
(with copy of order).

(Draft I'ch above

Dated, Fort St. George,

SIR,

CF 1

With reference to your ~~recommendation roll~~ letter No. C 1815, dated the 18th April 1940 for remission of sentence on behalf of life-convict No. 47133, Madura Jail I am directed to forward for your information and further action a copy of the Proceedings of this Government No. × Home ~~L.G.~~, dated the × - 6 - 1940. sanctioning the ~~absolute~~ conditional release of the convict.

15/6/40.
15/6
15/6.

15/6

G/C.

I have the honour to be,
Sir
Your most obedient servant,

DISTRICT AND SESSIONS COURT BELLARY
RECEIVED
7- FEB 1939
BELLARY.
DISTRICT AND SESSIONS COURT BELLARY
25 NOV 1937
16 JUL 1938
BELLARY

In the Court of Session of the Bellary Division.

The 28th day of January 1925.

Present:—SIDNEY BURN Esquire, I. C. S., Ag. Sessions Judge.

SESSION CASE No. 59 OF 1924.

1. Halti Basappa.
2. Sampanni Porappa.
3. Boya Bhima.
4. Madiga Iruga.

Preliminary Enquiry No. 7 of 1924, committed by Mr. M. Sitarama Rao, Stationary Sub Magistrate of Hospet, Bellary District.

Assessors ... 1. S. Angada Charlu, Brahmin.
2. T. Sreenivasa Rao, Brahmin.
3. N. Narasinga Rao, Brahmin.
4. D. Narasimha Charlu, Brahmin.

1st and 2nd Accused are defended by Mr. P. Siva Rao, Vakil.
3rd and 4th accused are defended by Mr. Kolar Venkoba Rao, Vakil, appointed by court.

Offences ...
Against all the accused.
1. Murder, under section 302, I. P. C.
Against 1st and 2nd accused only.
2. Voluntarily causing grievous hurt with a cutting instrument, under section 326, I. P. C.

Plea ... Not guilty.

Opinion of Assessors
1st Assessor :— Guilty as charged.
2nd Assessor :— 1st & 2nd accused guilty under section 302, I. P. C.
3rd accused guilty under section 326, I. P. C.
4th accused not guilty of any offence.
3rd & 4th Assessors — 1st to 3rd accused guilty as charged.
4th accused not guilty of any offence.

Finding of Court — 1st and 2nd accused are guilty under sections 302 and 326 I. P. C; 3rd and 4th accused guilty under section 302, I. P. C.

Sentence ... Each of the accused is sentenced to transportation for life under section 302, I. P. C. No separate sentence is passed on 1st and 2nd accused under section 326, I. P. C.

No.	Name of	d.	Father's name.	Caste or race.	Occupation.	Residence.	Age.
1	Halti Basappa		Komarappa	Lingayet	Cultivation	Talur, Hospet Taluk.	23
2	Sampanni Porappa		Basavana Gowd	do	do	do	22
3	Boya Bhima		Karilingappa	Boya	do	do	21
4	Madiga Iruga		Latchmanna	Madiga	do	do.	22

DATE OF :—

1.	Occurrence ...		18—9—1924.
2.	Complaint ...		18—9—1924.
3.	Arrest or appearance	1st and 2nd accused	9—10—1924.
		3rd accused	27—9—1924.
		4th accused	25—9—1924.
4.	Commitment ...	...	1—12—1924.
5.	Commencement of trial	...	19—1—1925.
6.	Close of trial ...	...	24—1—1925.
7.	Explanation of delay	...	Nil.

JUDGMENT.

The four Accused in this case, (1) Halti Basappa, (2) Sampanni Porappa, (3) Boya Bhima, (4) Madiga Iruga have been charged with murder, Section 302, I. P. C., and the first two, Halti Basappa and Sampanni Porappa, have been further charged with voluntarily causing grievous hurt by means of a cutting instrument, Section 326, I. P. C. A third charge was framed that all the four jointly at the same time and place committed robbery, punishable under Section 392, I. P. C. The third offence charged being triable by Jury, while the first two are triable with the aid of Assessors, I ordered that trial of the third offence should be stayed pending the result of the trial of the first two, to avoid the inconvenience of holding a trial by jury simultaneously with a trial with the aid of Assessors.

2. The murder and the grievous hurt for which the Accused are being tried, were committed on the evening of Thursday the 18th September 1924. The murdered man Kesaji was a Marwadi merchant, in business with his brothers at Talur, a village in Hospet Taluk about five miles to the south of the railway station of Gadiganur. He was murdered at a place on the cart-track from Talur to Gadiganur a little more than three miles from Talur, as he was going with his nephew Punnamchand (p. w. 4) to the railway station. The two Marwadis were intending to go to the Friday shandy at Bellary, to buy stock for the cloth and grain shops which they keep at Talur. The elder man, who was murdered, was carrying with him Rs. 880 in notes and Rs. 7 in coin, and as after the murder no notes were found on his body, it seems a reasonable inference that the motive of the attack was robbery.

3. There is only one direct witness, p. w. 4 the nephew of the murdered man. He has described how he and his uncle left the village at about 5 p. m. to walk to the railway station at Gadiganur. About three miles from Talur they were overtaken by the four Accused of whom the 1st and 2nd had sickles in their hands. The Accused were known to the Marwadis and all six persons together proceeded in the direction of Gadiganur. Near a small stream which crosses the cart-track, the 1st Accused suddenly seized p. w. 4 round the neck, began to throttle him and threw him to the ground. The 2nd Accused came up and with his sickle-slashed at the private parts of p. w. 4, and then both of them dragged him off the cart-track and threw him down amongst some small bushes, probably believing him dead, or dying. Meanwhile the other two Accused had caught hold of the elder man, Kesaji. P. w. 4 says that he himself lost consciousness, and that is not improbable seeing that the whole of his scrotum had been cut off, and one spermatic cord had been cut. But his unconsciousness could not have lasted long because he came to himself in time to see all the four Accused struggling over the body of his uncle Kesaji. P. w. 4 was in no condition to help Kesaji but he did manage to make his own escape, and he got back to his home about 9 p. m. looking behind him all the way for fear the robbers should be after him again.

4. He told another uncle Vanchaji (p. w. 5) who at once informed the village Reddi (p. w. 21) who came with the Karnam (p. w. 20) and recorded a statement from p. w. 4 (Exhibit T). The houses of these four accused were at once visited, and none of them was found at home. Then the Reddi proceeded to the scene of the crime, and found there the dead body of Kesaji, with the throat cut, and the genital organs missing. The Reddi and his party, leaving some persons to watch the corpse, went on to Gadiganur, whence a telegram (Exhibit S) was sent to the Stationary Sub Magistrate, Hospet. Then they went with the Reddi of Gadiganur (p. w. 19) to the Police Station at Gadiganur, where they gave their information to the Sub Inspector of Police (p. w. 22). He recorded it in the First Information Report (Exhibit VII) and then went with the Reddi (p. w. 21), Karnam (p. w. 20) and other persons from Talur, to investigate the crime.

5. The accused were not found for several days. On the 25th September the 4th accused, Iruga, was arrested by p. w. 12 and a Vettiyan, lurking in the fields, and was produced before the Stationary Sub Magistrate, Hospet. On the 27th September the 3rd accused Bhima was caught in another field by p. w. 10 and another man, and was taken to the Police Station at Gadiganur. The accused 1 and 2 surrendered themselves before the Stationary Sub Magistrate, Hospet, some days later.

6. The case against all the accused rests mainly upon the evidence of p. w. 4 the young Marwadi, who escaped miraculously with his life, but with only one testicle. If his evidence is believed the accused are certainly guilty of the offences with which they have been charged. This youth was cross-examined at great length, but nothing was elicited which could discredit his evidence. The only discrepancy worth noticing, and the only difficult point in the case, is that whereas this witness now says that there were only four robbers, and those the present Accused, the Reddi's earliest report (Exhibit T) and the telegram (Exhibit S) despatched to the Stationary Sub Magistrate from Gadiganur, mention six and five persons, respectively. The Reddi (p. w. 21) and the Karnam (p. w. 20 who wrote Exhibit T) say that p. w. 4 when questioned the same night, named the first three Accused, said there was a fourth, a Madiga whom he could recognize, "and two other unknown persons". The telegram Exhibit S was written out by the Karnam, and he says in evidence that he intended to say the same in the telegram, though in fact the telegram says "Harti Basappa, Samapanni Porappa, Boy Bhema and two unknown persons". But p. w. 4 maintains that he did not mention "two unknown persons" at all at any time. His demeanour in the witness box was very good. He exhibited no confusion of any kind when he was asked about this discrepancy; he merely said that he had always mentioned four robbers and no more. And he is corroborated by his uncle (p. w. 5) who was present when he made his statement to the Reddi. The discrepancy is I think susceptible of an easy explanation. P. w. 4 is a Marwadi. Kanarese, the language in which he is said to have given his statement (Exhibit T) to the Reddi and the Karnam, is a foreign language to him. At 9 p. m. on the night of the murder, he was himself suffering from intense pain and labouring under the excitement of his own narrow escape, and was in no condition to be narrowly cross-examined. He was giving his account in a foreign language, and there can be no doubt but that he was misunderstood by the Reddi and the Karnam. His uncle (p. w. 5) to whom he would speak in his native tongue, says quite definitely that he only mentioned four robbers: the Sub Inspector of Police (p. w. 22) who is a Muhammadan and who speaks Hindustani, Prosecution 4th witness' own language, examined him at 3 a. m. the next day, and to

him p. w. 4 certainly mentioned four persons and no more. It is not improbable that the Reddi and the Karnam said "How many persons altogether?" and p. w 4 replied "Six", meaning that including himself and his uncle there were altogether six persons on the scene at once, but misunderstood by the Reddi and the Karnam as meaning six robbers.

7. Apart from this there is no discrepancy worth consideration. There is also ample corroboration of p w. 4's account from other sources. The 3rd and 4th Accused gave statements to the Stationary Sub Magistrate, Hospet, on the 9th and 4th of October 1924 respectively, which the Stationary Sub Magistrate (p. w. 3) has proved here as Exhibits G and F. Of these Exhibit F, the statement of the 4th Accused is an exculpation, and can be considered only as against himself, but Exhibit G is a real confession by the 3rd Accused Bhima and it can be taken into consideration as against the other Accused as well. My attention has been drawn to a long list of rulings of High Courts on the subject of confessions. These need not be referred to in detail as there is not one which would necessitate the exclusion of the confession of the 3rd Accused. He has described the whole occurrence and has admitted as against himself that he stood watching the elder Marwadi while the other three disposed of the younger (p. w. 4). On this statement he could certainly be convicted of abetment of murder done in his own presence, and his confession is clearly admissible and can be taken into consideration as against the other three Accused also.

8. Further corroboration is provided by the mothers (p. ws. 14 and 11) of the 3rd and 4th Accused respectively, who produced currency notes secretly given to them by their sons a few days after the crime, and represented by their sons to be their shares of the proceeds of the robbery, or their wages for the parts played by them. The brother (p. w. 13) of the 4th Accused further corroborates this part of the story. There is also corroboration in the conduct of all the Accused, who all suddenly and simultaneously disappeared from their homes and their usual places of resort, and could not be found for several days, though proclamations were made in the village.

9. The Accused denied the offence and asserted that the Reddi (p. w. 21) had instigated the concoction of the case against them. The cross-examination of the Reddi and of all the other prosecution witnesses who live in Talur quite failed to reveal any enmity or ground of enmity between the Reddi and the Accused. No attempt has been made to prove any enmity. The 3rd and 4th Accused further stated that their confessions were made under the stress of fear induced by Police torture. The Stationary Sub Magistrate (p. w. 3) proved that the 4th Accused was never in the custody of the Police at all, and that the 3rd Accused was only in the custody of the Police on one day, viz., 27-28th September. The "confession" of the 4th Accused was recorded on the 4th October, i. e., nine days after he had been in the custody of the Stationary Sub Magistrate in the Sub Jail. The confession of the 3rd Accused was recorded on the 9th October, which was 11 days after he had left Police custody. The Stationary Sub Magistrate took the utmost precautions to give these two Accused ample opportunity to reflect on the nature of the act they were about to do; he specifically asked them whether they had been beaten or in any way harassed by the Police and they denied it. Their subsequent statements that they were tortured are clearly false and must be disregarded. There is thus nothing whatever on behalf of the accused to rebut the case against them.

10. The 1st, 3rd and 4th Assessors are of opinion that the first two Accused are guilty of the offences with which they were charged. The 2nd Assessor thinks that the first two Accused are guilty of murder. Three Assessors consider the 3rd Accused guilty of murder and the remaining Assessor finds him guilty of grievous hurt with which he was not charged. One Assessor is of opinion that the fourth Accused Iruga also is guilty of the offence of murder charged against him. The other three think that the fourth Accused is not guilty of any offence. This opinion must, I think, be due to a too kind acceptance of the 4th Accused's own statement as true in every particular. I cannot agree with this. His own statement corroborates p. w. 4's evidence that he was present when the murder was done. P. w. 4's evidence is that he as well as the 3rd Accused seized Kesaji and held him and the 3rd Accused's confession also involves the 4th Accused in the actual murder. Moreover it is proved that the 4th Accused received Rs. 80, exactly the same amount as the 3rd Accused, and this fact is enough to show that he had not played the part he gives himself of a protester against the crime.

11. There can be no doubt whatever in this case. All the four Accused have clearly joined together to commit a dastardly murder in a cruel and revolting manner. It is merely the good fortune of Punnamachand (p. w. 4) that he also was not murdered outright. As it is, he has been maimed for life.

12. I convict all the four Accused of the offence of murder (Section 302, I. P. C.) with which they were charged. As it is impossible to say which of them actually struck the blow which killed Kesaji, I sentence them all to transportation for life. I convict the first two Accused also of the offence of voluntarily causing grievous hurt with a cutting weapon (Section 326, I. P. C.) with which they were charged. In view of the sentence of transportation for life passed on the first charge, it is not necessary to impose a separate punishment for this offence. If it had been, considering the peculiarily brutal nature of their crime, I should have imposed the same sentence of transportation for life.

(Signed) SIDNEY BURN,
Ag. Sessions Judge.

N. B.—The prisoners have been committed to the Central Jail, Bellary.

The following witnesses were examined :—

For prosecution.

1. K. V. Dhanakoti Nayudu.
2. Shaik Sahib.
3. M. Sitarama Rao.
4. Punnamchand.
5. Vanchaji.
6. Sanna Hussain Sahib.
7. Hussaini.
8. Hosanalli Iruga
9. Iswaramma.
10. Mowla Sahib.
11. Madiga Basakka.
12. Talavara Basya.
13. Kari Ninga.
14. Hanumakka.
15. Allavva.
16. Lingana Gowd.
17. Santhappa.
18. Doddayya.
19. N. Doddana Gowd.
20. Sanjiva Rao.
21. Doddana Gowd.
22. Abdul Gaffur Sahib.

For defence.

Nil.

The following exhibits were filed :—

For prosecution.

A/19-9-1924. Telegram to the Medical Officer, Hospet by the Police.
B/21-9-1924. Wound certificate granted to Punnamchand (p. w. 4).

C/20-9-1924. Post Mortem Certificate.

D/28-9-1924. Notes of the Medical Officer in Sub Jail Register regarding the injuries on the person of Boya Bhima (3rd accused).

E/29-9-1924. Notes of the Medical Officer in Sub Jail Register regarding the injuries on the person of Madiga Iruga (4th Accused).

F/4-10-1924. Confessional statement recorded by the Stationary Sub Magistrate of Hospet from Madiga Iruga (4th Accused).

G/9-10-1924. Confessional statement recorded by the Stationary Sub Magistrate of Hospet from Boya Bhima (3rd Accused).

H/19-9-1924. Statement of Punnamchand (p. w. 4) before the Stationary Sub Magistrate of Hospet.

J/19-9-1924. Statement of Punnamchand (p. w. 4) before the Police.

K/20-9-1924. Sworn statement made by Sanna Hussain Sahib (p. w. 6) before the Stationary Sub Magistrate of Hospet at Talur.

L/20-9-1924. Sworn statement made by Hussaini (p. w. 7) before the Stationary Sub Magistrate of Hospet at Talur.

M/20-9-1924. Sworn statement made by Iswaramma (p. w. 9) before the Stationary Sub Magistrate of Hospet at Talur.

N/27-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 65 by Hanumakka (p. w. 14).

O/28-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 70 by Madiga Basakka (p. w. 11).

P/28-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 25 by Kari Lingappa (p. w. 13).

Q/20-9-1924. Sworn statement made by Doddayya (p. w. 18) before the Stationary Sub Magistrate of Hospet at Talur.

R/19-9-1924. Inquest report.

S/19-9-1924. Telegram sent by Doddana Gowd (p. w. 21), Village Magistrate of Talur to the Stationary Sub Magistrate of Hospet.

T/18-9-1924. Village Magistrate's report embodying the complaint of Punnamchand (p. w. 4) to the Police.

U/18-9-1924. Panchayatnama prepared for the search of the houses of 1st to 4th accused in order to arrest them.

W/23-9-1924. Plan of the scene of the offence and its surroundings.

Y/6-11-1924. Deposition of N B. Morris, Assistant Surgeon of Bellary before the Committing Magistrate.

Z/7-10-1924. Panchayatnama prepared for the identification of Madiga Iruga (4th Accused) by Punnamchand (p. w. 4) at Bellary Hospital.

A.A/26-11-1924 and 29-11-1924. Statement made by the 1st prisoner before the Committing Magistrate.

B.B/26-11-1924 and 29-11-1924. Statement made by the 2nd prisoner before the Committing Magistrate.

C.C/26-11-1924 and 29-11-1924. Statement made by the 3rd prisoner before the Committing Magistrate.

D.D/26-11-1924 and 29-11-1924. Statement made by the 4th prisoner before the Committing Magistrate.

For Defence.

I/1-10-1924. Requisition letter from the Police to the Stationary Sub Magistrate, Hospet requesting to record the statements of Accused 3 and 4 under Section 164 of the Code of Criminal Procedure.

II/30-10-1924. Portion marked in the deposition of Sanna Hussain Sahib (p. w. 6) as P. w. 3 before the Committing Magistrate.

III/30.10-1924. Portion marked in the deposition of Hosahalli Iruga (p. w. 8) as p. w. 5 before the Committing Magistrate.

IV/5-11-1924. Portion marked in the deposition of Mowla Sahib (p. w. 10) as p. w. 7 before the Committing Magistrate.

V/5-11-1924. Deposition of Hanumakka (p.w. 14) as p. w. 9 before the Committing Magistrate.

VI/5-11-1924. Deposition of Allavva (p. w. 15) as p. w. 10 before the Committing Magistrate.

VII/18-9-1924. First information report.

Material objects produced in evidence:—

1. (series): 8 Gunny bags.
2. Deceased's Dhoti.
3. Red turban.
4. Shawl.
5. Bed sheet (quilt).
6. Dhoti.
7. White turban.
8. Umbrella.
9. Envelope.
10. Gold ear-chain.
11. 7 Currency notes (6 of Rs. 10 each and 1 of Rs. 5).
12. Tin box.
13. Gunny piece.
14. A pair of chada (shoe).

(Signed). SIDNEY BURN,
Ag. Sessions Judge.

(True copy).

C.C. Rangaraoo
Sheristadar. 19.XI.37.

No. of words. 3421.

Charges Rs. 5—4—0.

Br. 16.11.37 Rs. 6132 19/11

Sessions Court
Bellary
16.11.1937.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Thursday, the Thirtieth day of A p r i l,

One thousand nine hundred and twenty-five.

Present:-

The Honourable Mr. Justice Devadoss,

and

The Honourable Mr. Justice Wallace.

Criminal Appeal No.113 of 1925.

1. Malti Basappa,
2. Sampanni Porappa,
3. Boya Bhima,
4. Madiga Iruga

... Appellants. (Prisoners).

Appeal against the order of the Court of Session of the Bellary Division in Case No.59 of the Calendar for 1924.

This Appeal coming on for hearing after service of notice on the appellants, and Counsel not appearing on their behalf, upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr. K.V.Ganapati for the Public Prosecutor on behalf of the Crown, the Court delivered the following

Judgment:-

The appellants have been convicted of murder and sentenced to transportation for life by the Sessions Judge of Bellary. The case for the prosecution is that the deceased and P.W.4, two Marwadies, were on their way to the Railway Station of Gadiganur. The Marwadies had a considerable sum of money in notes and the appellants attacked them on the way killed the deceased, severely injured P.W.4 and took away the notes and cash in the possession of the deceased. That the deceased died of the

the injuries inflicted on him is proved beyond all reasonable doubt. P.W.4 also was very severely attacked and probably he was left for dead but after the thieves left the place he went to the village and told the people of what had happened. P.W.4 is the only eye-witness to the occurrence. He has given his evidence in a satisfactory way and there is no reason to doubt the truth of what he stated. The appellants 1 to 3 were persons known to the Karnadian and therefore there can be no doubt as to the identification of accused 1 to 3. As regards the 4th accused, there is this fact that certain notes were handed over by his mother to the Police. Though there is no proof that the notes found in the possession of the mother (P.W.11) of the 4th appellant were the notes that were in the possession of the deceased, yet no explanation is offered by the 4th accused as regards the possession of these notes. - Though the statement made by him before the Magistrate can not be considered as a confessional statement in as much as he has not implicated himself to the full - extent as he has done the first accused yet there is this fact that the sum mentioned by him namely 80 rupees is the actual sum of money that was handed over to the Police by the mother of the 4th appellant and ~~xxxxxxfrx~~ therefore the evidence of P.W.11 can be safely accepted as true and that evidence distinctly connects the 4th appellant with the murder. The 3rd appellant also made a statement to the Magistrate which is not strictly a confessional statement. It is unnecessary to place any reliance on his statement. P.W.4 gave information as soon as he reached the village and no circumstance is elicited to prove that P.W.4 is not speaking the truth. The case is a clear one and the way in which the deceased and the 4th prosecution witness were -

mutilated

mutilated in a most brutal manner shows that there was something more behind, than what appears on the evidence.

We have no hesitation in agreeing with the learned Sessions Judge in holding the appellants guilty of ruthless murder and so confirm the conviction and sentence and dismiss the appeal.

(Sd.) Nur Nur-ud-din,
Deputy Registrar,
Appellate side.

(True copy)

Ag. Sub Assistant Registrar, A.S.

To

The Sessions Judge of the Sukkur Division in duplicate for communication to the prisoners (with records).

2. The ~~Divisional~~ District Magistrate of Sukkur through the Sessions Judge of the Sukkur Division

3. The Inspector-General of Police, Sindh.

F.L...

Se 59
24

Dated 30th April 1920.

2/6

Dis 16 3d 11/5

Forwarded for the orders
of His Majesty's Attorney
General under Section 3
of the Criminal Appeal Act
1907 for the
Information

[illegible]

Less. Court
Secy

Confirming the convictions of the
of and the sentences passed on
the prisoners at the Plenary Session
Sessions Court of 1920.

C.F. 32.

In reply, please quote number, date and short title.*

Revenue DEPARTMENT. V 1796 31 W 24/6/40

Received 22 JUN 1940 Registered

From (Name) M. Karamatullah Esquire, I.C.S.,

(Designation) District Magistrate,

Post Box ____, (Station) Bellary.

Telegraphic Address ____

To

The Secretary to Government,
Home Department,
Madras.

Ref.C. *No.* 472/40 Mark *dated* 20-6-40 19

Sir,

Prisoners - Port Blair Convict - No. 47133 Madiga Euruga - Conditional release - sanctioned - records return - requested.

ENCLOSURES ____

SPARE COPIES ____

G.O.No.Ms. 2599, Home Department, dated 17-6-40 and this Office Ref.C. 472/40 dated 17-5-40

The judgments(1) S.C.No. 59/24 (2) C.A.No. 113/25 of the Sessions Court and of the High Court on appeal relating to the convict in question were submitted as enclosures to this office reference quoted above. They have not been received back along with the GovernmentOrder quoted above. I request that they may be returned, if they are no longer required by Government.

Mubarak Khan
21.6.40

m.k.21/6

For District Magistrate.

21.6

Memo No 17961/9 sent for issue

40/29/6

33

Home Dept to

G.No. 17961D/40 Memo No. 17961 W-1, dt 29/6/40

Prisoners — Port Blair convict No. 47133, Nadiya Daya — judgment copies. Ref:. Letter from the D.M. Bellary Rf.C.No. 472/40 Regl. dt 20-6-40

The D.M. of Bellary is informed that Copies of judgments relating to convicts whose premature release is sanctioned by Govt. are, ~~not usually~~ returned. Retained for record.

28/6/40.

29/6

To

The D.M. Bellary. 29.6.40